THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.2277 of 2007

Date: 13.02.2007

Between:

R.Sarangapani & others

....Petitioners

and

The Principal Secretary to the Government,
Department of Agriculture & others.

....Respondents

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O R D E R:

The petitioners claim to be the residents of different villages of Jammikunta Mandal, Karimnagar District. The first respondent issued G.O.Ms.No.288 Agriculture & Cooperation (MKTG.1-2) Department, dated 19.07.2005, constituting the market committee at Jammikunta with the fourth respondent as its Chairman and seventeen others as its members. The petitioners raised an objection as to the eligibility of the fourth respondent to be appointed as Chairman and accordingly, made a representation to the first respondent on 27.09.2005. Through its memo, dated 30.09.2005, the first respondent called for a report from the Joint Collector, Karimnagar, who, in turn, submitted a report, dated 02.05.2006. Taking the same into account, the first respondent issued a memo, dated 02.01.2007, indicating that the allegations made by the petitioners are without any basis. The petitioners challenge the said memo.

Sri P.Sri Raghu Ram, the learned counsel for the petitioners submits that the fourth respondent is not a resident of Jammikunta Village and he did not answer the description of ‘grower’, much less fulfilled the qualifications stipulated under Section 5 of the Andhra Pradesh (Agricultural Produce & Livestock) Markets Act, 1966 (for short ‘the Act’). He contends that the

Joint Collector had conducted a detailed enquiry and clearly indicated that the fourth respondent did not fulfil the qualifications and despite the same, the impugned memo was issued.

The learned Government Pleader for Marketing, on the other hand, submits that the requirement under Section 5 of the Act is that an individual must be a grower as defined under Sub-section (iv) of Section 2 of the Act and the record clearly discloses that the fourth respondent not only owned the property in Jammikunta Village, but also was registered as a voter of that Village much before his appointment as Chairman.

Section 5 of the Act provides for constitution of the market committees for the notified areas. Sub-section (1) of Section 5 of the Act mandates that a person, to be appointed to the market committee, must be from among the categories of growers of agricultural produce, owners of livestock and products of livestock in the notified area. Further categories, such as small farmers, scheduled castes, scheduled tribes, etcetera are indicated. The word 'grower' is defined under Sub-section (iv) of Section 2 of the Act as under:

> " 'Grower' means a person, who produces by himself or by hired labour or otherwise, or receives under tenancy agreement, the agricultural produce, but does not include a dealer or commission agent in such produce,

although he may be a grower of such produce".

The first respondent issued G.O.Ms.No.288, dated 19.07.2005, appointing the fourth respondent as Chairman and other persons as members of the market committee. On a representation made by the petitioners herein about the eligibility of the fourth respondent for being appointed as Chairman, a report was called for. The Joint Collector, Karimnagar in her report categorically stated that the fourth respondent had purchased the land in Jammikunta Village through sale deeds, dated 26.11.2004 and 04.12.2004. A pattadar pass book was issued to him for the said lands. It was also indicated that he was registered as a voter of Jammikunta Village for Polling Station No.110 for the year 2004 itself. Reference is made to the permission issued by the Gram Panchayat to him for construction of a house on 09.02.2005. Once it had emerged that the fourth respondent not only held the agricultural land, but also a resident of Jammikunta Village, there was absolutely no basis for the allegation made by the petitioners. It is not known as to what exactly was the purport of the reference by the Government to the Joint Collector. However, the Joint Collector has chosen to place her own interpretation of various provisions and in a way had far exceeded the scope of the reference. The following observation in the report discloses the same:

> "When the criteria stipulated is that the Members should be either 'growers' of agricultural produce or 'owners' of livestock and

products of livestock 'in the notified area', it can be deducted that the Member is assumed to be ordinarily residing in the notified area to grow crops/own livestock".

Even otherwise, the report itself clearly discloses that the fourth respondent is not only a grower, but also a resident. Though Section 5 in terms does not require that an individual must be a resident of a village for the notified area, the necessity to delve into that aspect does not exist in view of the facts referred to above. The impugned memo has simply stated that the allegations made against the fourth respondent stood rebutted. The memo is not referable to any statutory provisions. If the petitioners are still of the view that the fourth respondent does not satisfy the conditions stipulated under Section 5 of the Act, it is for them to file a suit and seek necessary declaration. This Court does not find any basis to interfere with the impugned memo.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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13.02.2007

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